

REMARKS

In the foregoing Listing of Claims, Applicants cancel claim 1 and amend claim 25. Applicants add claims 28-30 to the application. The new claims are directed to a method of inhibiting aldose reductase activity in a human in need thereof, which finds support on pages 8 and 9 and elsewhere in the Specification. Applicants respectfully request favorable consideration and allowance of the inventions defined in claims 25-27 for at least the following reasons.

The Office Action included a rejection of claims 25-27 under 35 U.S.C. §112, second paragraph, as being vague and indefinite. The Office Action stated that it is not clear from the claims if a human to whom said composition is administered is in need of said administration. While applicants do not agree with this rejection, in order to possibly make claim 25 more clear, in the foregoing amendments Applicants amend claim 25 by further defining a method of inhibiting the formation of advanced glycation end products and inhibiting aldose reductase activity *in a human in need thereof* which comprises *administering to the human* a composition comprising anthocyanin and having activity of inhibiting advanced glycation end product formation and inhibiting aldose reductase activity.

At least for these reasons, Applicants respectfully submit that claims 25-27, as well as new claims 28-30, particularly point out and distinctly claim the subject matter regarded as the invention within the meaning of 35 U.S.C. §112. Therefore,

Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

The Office Action included a rejection of claim 1 under 35 U.S.C. §102(b) as being anticipated by Matsumoto (European Patent No. 1 318 201 A1).

Applicant cancel claim 1 above. Accordingly, this rejection is now moot.

Page 4 of the Office Action included a rejection of claims 25-27 under 35 U.S.C. §103(a) as being unpatentable over Matsumoto in combination with Bailey (US 6,780,442), and Rahbar (US 6,605,642). The Office Action took the position that Matsumoto discloses the claimed anthocyanin, but not a method of inhibiting the formation of advanced glycation end products and aldose reductase activity in a human by administration of anthocyanin. However, the Office Action cited Bailey as disclosing that orally administered anthocyanins are beneficial for treating diabetes (col. 1, ll. 36-40). The Office Action cited Rahbar as disclosing that in diabetic patients increased glycation takes place (col. 1, ll. 33-37). Based on these teachings, the Office Action concluded that administering anthocyanin to a diabetic person would inherently inhibit formation of advanced glycation end products and aldose reductase activity.

Applicants respectfully submit that claims 25-30 are patently distinguishable from the teachings of Matsumoto for the reasons set forth in the amendments filed on February 5, 2009 and August 27, 2009, which reasons are incorporated herein

by reference. In addition, Applicants respectfully submit that the inventions defined in claims 25-30 are patently distinguishable from the teachings of Matsumoto, Bailey, and Rahbar for at least the following reasons.

In particular, Applicants respectfully submit that the positions proffered in the Office Action are incorrect. Namely, the teachings of Matsumoto, Bailey, and Rahbar provide no reasonable expectation and can provide no inherent teaching concerning inhibiting aldose reductase activity in a human in need thereof by administering anthocyanin to the human, as presently claimed. Firstly, Applicants' claims 25-27 require both inhibiting the formation of advanced glycation end products *and inhibiting aldose reductase activity*. Similarly, claims 28-30 require *inhibiting aldose reductase activity*. However, the cited prior art does not discuss or address *inhibiting aldose reductase activity*. Thus, an element required in the claims is missing from the prior art. Therefore, there can be no anticipation or obviousness based on the cited prior art. See, for example, *In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988).

Secondly, simply because a human has diabetes does not require or necessitate that the human also suffers from the formation of advanced glycation end products or aldose reductase activity. In other words, not all diabetes patients suffer from the formation of advanced glycation end products or aldose reductase activity, and therefore, this condition cannot be inherent in all diabetes patients.

Diabetes has a wide variety of symptoms. The mechanism of the occurrence of the symptoms is multiple complicated. Accordingly, even if a prior art teaching disclosed a compound is beneficial for treating diabetes, one of ordinary skill in the art would have no reasonable expectation or prediction that such a compound would have any utility for inhibiting the formation of advanced glycation end products or inhibiting aldose reductase activity, as presently claimed.

In addition, the activity of inhibiting advanced glycation end products or inhibiting aldose reductase activity, as presently claimed, is useful for diseases other than prophylaxis and treatment of diabetes. For example, the Specification describes the activity of inhibiting advanced glycation end products is useful for many diseases that are related to the formation of advanced glycation end products such as Alzheimer disease.

At least for the foregoing reasons, the Applicants respectfully submit that the presently claimed inventions are not inherent or obvious based on the teachings of Matsumoto, Bailey, and Rahbar. In other words, Applicants respectfully submit that claims 25-30 are patently distinguishable from the teachings of Matsumoto, Bailey, and Rahbar within the meaning of 35 U.S.C. §103(a). Therefore, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

Applicants believe that the foregoing is a complete and proper response to the Office Action mailed September 16, 2009. While it is believed that all pending claims in this application are in condition for allowance, if the Examiner has any comments or questions, Applicants invite the Examiner to telephone the undersigned at the below listed number to resolve any outstanding issues.

In the event this paper is not timely filed, Applicants hereby petition for an appropriate extension of time. The Commissioner is hereby authorized to charge the fee therefor, as well as any other fees which become due, to our Deposit Account No. 50-1147.

Respectfully submitted,

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